

FILED

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA JAN 22 1999
RALEIGH DIVISION

PEGGY B. DEANS, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF N.C.

IN RE:)	
)	CHAPTER 7
INTERNATIONAL HERITAGE, INC.)	CASE NO. 98-02675-5-ATS
)	
INTERNATIONAL HERITAGE,)	
INCORPORATED,)	CHAPTER 7
)	CASE NO. 98-02674-5-ATS
Debtors.)	

EX PARTE
MOTION TO EXTEND TIME TO
ASSUME OR REJECT EXECUTORY CONTRACTS

NOW COMES Holmes P. Harden, Trustee, in the above-captioned case, and alleges:

1. Holmes P. Harden is the duly qualified and acting trustee herein.
2. An order for relief was entered on November 25, 1998.
3. Trustee is informs and believes and therefore alleges that one or both Debtors purchased from 20/21. Interactive LLC certain software and source code which was used to maintain records and manage operations of approximately 190,000 sales representatives. The software and source code are essential to the administration of these Chapter 7 cases.
4. Trustee is informed by 20/21. Interactive LLC that it holds the copyright on the above-described software and source code, which are allegedly the subject of two licensing agreements. International Heritage, Inc. is also party to an end user license agreement with Vertex, Inc.
5. The president of 20/21. Interactive LLC, Janet Panelli, informed Trustee on January 21, 1999 that she considers the licensing agreements to be in default for failure to pay quarterly maintenance fees. Trustee has been unable to ascertain with certainty whether a maintenance clause in the licensing agreements between the Debtors and 20/21. Interactive LLC renders the licensing agreements executory in nature, requiring that the licensing agreements be assumed in order to permit the Debtors to continue to use the software and source code.
6. According to 11 U.S.C. § 365(d), executory contracts are deemed rejected by operation of law unless the Court extends the time within which the Trustee may assume or reject same. The time within which the Trustee may assume or reject expires on January 24, 1999.
7. Trustee does not concede that the Debtors's right to use the aforesaid software and source code is executory. However, Trustee has not received or reviewed the licensing agreements, which are said to be voluminous, and believes that it is prudent to request that the

Court extend the time to assume or reject any and all executory contracts existing between either or both of the Debtors, 20/21. Interactive LLC, and/or Vertex, Inc. an additional sixty (60) days.

WHEREFORE, Trustee prays that this Court make its order extending the time within which he may assume or reject any and all executory contracts which may exist between either or both of the Debtors, 20/21. Interactive LLC software, and/or Vertex, Inc. to sixty (60) days from and after the date of the Court's order disposing of this motion.

Respectfully submitted this 21st day of January, 1999.

MAUPIN TAYLOR & ELLIS, P.A.

BY: 

Holmes P. Harden, Trustee

3200 Beechleaf Court, Suite 500

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Telephone: 919/981-4000

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CERTIFICATE OF SERVICE

I, Holmes P. Harden, do hereby certify that the foregoing or attached document was served upon all parties of record by mailing a copy thereof to them at the addresses indicated below with the proper postage attached and deposited into an official depository under the exclusive care and custody of the United States Postal Service in Raleigh, North Carolina, on the 21st day of January, 1999.

MAUPIN TAYLOR & ELLIS, P.A.

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SERVED:

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